

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.752 of 2016

ORDER:

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This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/accused Nos.1 to 3 in Crime No.263 of 2015 on the file of Station House Officer, Yerraguntla Police Station, YSR Kadapa District, registered under Sections 406 and 420 IPC.

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The contention of the learned counsel for the petitioners is two fold:

1. The lis involved between the parties is purely civil in nature without any element of criminality;

2. The police ought not to have registered a case against the petitioners, who are employees of M/s.3F Industries Limited.

Learned Public Prosecutor submitted that this is not the stage to go into the merits of the main case.

The petitioners are accused Nos.1 to 3 and the first respondent is the *de facto* complainant in Crime No.263 of 2015. A perusal of the record reveals that the first respondent was appointed as C & F agent of M/s.3F Industries Limited for Rayalaseema Division for a period of two years with effect from 21.01.2015. As per the allegations made in the complaint, the petitioners have encashed the bank guarantee given by the first respondent to the company with an ulterior motive to cheat him. It is further alleged that the petitioners have not paid commission or rent to the first respondent for stocking the edible oil supplied by M/s.3F Industries Limited. A perusal of the record reveals that the

petitioners 1 and 3 are employees and the second petitioner is the director of M/s.3F Industries Limited. A perusal of the record further reveals that the first respondent filed O.S.No.87 of 2015 on the file of Junior Civil Judge, Kamalapuram, against the State Bank of Hyderabad, Andhra Pragati Grameena Bank and M/s.3F Industries Limited challenging invoking of bank guarantee. Admittedly, petitioners 1 and 3 are not parties to the civil suit. Whether the petitioners are entitled to invoke the bank guarantee or not is the subject matter of O.S.No.87 of 2015. Whether the alleged lis involved between the parties is of purely civil in nature or any element of criminality is involved in it will come to light during the course of investigation. If this Court expresses any opinion touching the merits of the main case, the same may cause prejudice to one of the parties to the proceedings.

It is needless to say that the court has to take into consideration the allegations made in the complaint while exercising inherent jurisdiction under Section 482 Cr.P.C., in order to quash the criminal proceedings at the initial stage of investigation. The court is not justified in embarking upon an enquiry to ascertain the truthfulness, genuineness or otherwise of the allegations made in the complaint. It is a settled principle of law that the inherent power should not be exercised to stifle a legitimate investigation. If the allegations made in the complaint do not constitute the offence much less the offence alleged to have been committed by the petitioners, then this court can quash the proceedings in order to prevent abuse of process of court thereby to secure the ends of justice.

I have carefully perused the material available on record in order to ascertain whether the allegations made in the complaint

are patently absurd and inherently improbable thereby to quash the proceedings. The material available on record is *prima facie* sufficient to investigate into the matter in order to ascertain the truthfulness or otherwise of the allegations made in the complaint.

Having regard to the facts and circumstances of the case and also the principle enunciated in **R.P.KAPOOR v. STATE OF PUNJAB**^[1], **STATE OF HARYANA v. BHAJAN LAL**^[2], **V.Y.JOSE V STATE OF GURAJAT**^[3] **AND TEEJA DEVI v. STATE OF RAJASTHAN**^[4], I am of the considered view that this is not a fit case to quash the criminal proceedings at the threshold.

The learned counsel for the petitioners submitted that the concerned Station House Officer may be directed not to arrest the petitioners till completion of investigation.

Taking into consideration the facts and circumstances of the case, the Station House Officer, Yerraguntla Police Station, YSR Kadapa District, is hereby directed not to arrest the petitioners/accused Nos.1 to 3 in Crime No.262 of 2015 till completion of investigation.

With the above direction, the Criminal Petition is dismissed.

Consequently, Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

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T.SUNIL CHOWDARY, J

Date:25.01.2016

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[\[1\]](#) AIR 1960 SC 866

[\[2\]](#) AIR 1992 SC 604

[\[3\]](#) (2009) 3 SCC 78

[\[4\]](#) 2015 (1) ACR 564 (SC)